



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

JUN 29 2018

REPLY TO THE ATTENTION OF

WC-15J

CERTIFIED MAIL 7016 3560 0000 4829 8719
RETURN RECEIPT REQUESTED

Ex. B (Personal Privacy), Owner
Dairy Dreams LLC
FOIA Ex. 6 (Personal Privacy)
Casco, Wisconsin 54205

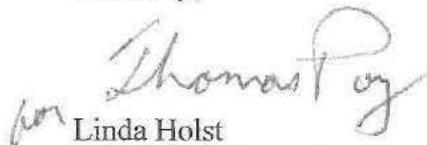
Subject: Final Administrative Order on Consent
Dairy Dreams LLC WPDES Permit # WI-0062057-03-0

Dear [REDACTED]:

The U.S. Environmental Protection Agency is issuing the enclosed Administrative Order on Consent to Dairy Dreams LLC under Section 309(a) of the Clean Water Act (CWA), 33 United States Code (U.S.C.) § 1319(a)(3). This Order is effective on the date signed by the Director of the Water Division.

If you have any questions or concerns, please contact Ben Atkinson, at (312) 353-8243 or atkinson.ben@epa.gov, or your legal counsel may contact Christopher Grubb, Associate Regional Counsel, at (312) 886-7187 or grubb.christopher@epa.gov.

Sincerely,


for Linda Holst
Acting Division Director
Water Division

Enclosure

cc: Mary Anne Lowndes, Wisconsin Department of Natural Resources
Andrea Gruen, Wisconsin Department of Natural Resources

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:)	
)	
Dairy Dreams LLC)	Administrative Order on Consent
FOIA Ex. 6 (Personal Privacy))	Under Section 309(a) of the Clean Water
Casco, WI 54205,)	Act, 33 U.S.C. § 1319(a)
)	
Respondent.)	

I. INTRODUCTION

1. The U.S. Environmental Protection Agency ("EPA") makes the findings of fact and law set forth below (Section IV) and is issuing this Administrative Order on Consent ("Order on Consent" or "Order") to Dairy Dreams LLC ("Respondent") under the authority of Section 309(a) of the Clean Water Act ("CWA" or "Act"), 33 U.S.C. § 1319(a). The Administrator of EPA has delegated the authority to issue such orders to the Regional Administrator of EPA Region 5, who has redelegated this authority to the Director of the Water Division, EPA, Region 5.
2. This Order is mutually entered into by EPA and Respondent.
3. At all times relevant to this Order, Respondent has owned and operated the Dairy Dreams Facility, located at FOIA Ex. 6 (Personal Privacy), Casco, WI 54205 (the "Facility").
4. EPA alleges that Respondent failed to comply with National Pollutant Discharge Elimination System ("NPDES") Permit No. WI-0062057-03-0 at the Dairy Dreams Facility.
5. By entering into this Order, Respondent: (1) consents to EPA's authority to issue and enforce this Order; (2) neither admits nor denies the factual allegations as set forth in this Order; (3) agrees to undertake all actions required by the terms and conditions of this Order; (4) consents to be bound by the requirements set forth herein; and (5) agrees not to contest the authority of EPA to issue or enforce this Order or the validity of any terms or conditions in this Order.
6. For the purposes of this Order only, Respondent waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this Order on Consent, including, but not limited to, any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

II. STATUTORY AUTHORITY

7. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant by any person except, *inter alia*, in compliance with an NPDES permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.
8. Section 402 of the CWA, 33 U.S.C. § 1342, authorizes states to request approval from EPA to administer their own permit programs for discharges into navigable waters within their jurisdictions.
9. Pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, the State of Wisconsin requested approval from EPA to administer its own permit program for discharges into navigable waters within Wisconsin, and such approval was granted by EPA on February 4, 1974. (39 Fed. Reg. 26,061 (July 16, 1974)). Therefore, pursuant to the State's permit program, the Wisconsin Department of Natural Resources ("WDNR") has issued NPDES permits.
10. Section 309(a) of the CWA, 33 U.S.C. § 1319(a), provides that whenever EPA finds that any person is in violation of any condition or limitation that implements, *inter alia*, Sections 301(a) and 402 of the CWA, 33 U.S.C. §§ 1311(a) and 1342, EPA shall issue an order requiring such person to comply with such condition or limitation, and shall specify a time for compliance that EPA determines to be reasonable taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

III. DEFINITIONS

11. All terms used, but not defined, in this Order have the meanings provided to them in the CWA, 33 U.S.C. § 1251 *et seq.*, and the EPA regulations promulgated under the CWA.
12. "Act" or "CWA" means the Clean Water Act, 33 U.S.C. § 1251 *et seq.*
13. "Animal feeding operation" or "AFO" means, among other things, a lot or facility where:
 - (i) Animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12 month period and,
 - (ii) Crops, vegetation, forage growth, or post harvest residues are not sustained in the normal growing season over any portion of the lot or facility. 40 C.F.R. § 122.23(b)(1).
14. "Concentrated animal feeding operation" or "CAFO" means an AFO that is defined as, among other things, a Large CAFO. 40 C.F.R. § 122.23(b)(2).
15. "Day" or "days" means a calendar day or calendar days unless expressly stated to be a business day. When computing any period of time under this Order, should the last day fall

on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next business day.

16. "Effective Date" has the definition provided in Section VIII of this Order.
17. "EPA" means the United States Environmental Protection Agency and any of its successor departments or agencies.
18. "Facility" means the Dairy Dreams facility located at FOIA Ex. 6 (Personal Privacy), Casco, WI 54205.
19. "Large CAFO" means, among other things, an animal feeding operation that stables or confines more than 700 mature dairy cows, whether milked or dry. 40 C.F.R. § 122.23(b)(4).
20. "NPDES Permit" and "Permit" mean the permit issued in accordance with the National Pollutant Discharge Elimination System (NPDES) pursuant to Section 402 of the CWA, 33 U.S.C. § 1342. In this Order, these terms mean NPDES Permit No. WI-0062057-03-0, issued by the State of Wisconsin to Respondent for the Dairy Dreams Facility with the effective date of May 1, 2012, and the expiration date of April 30, 2017. For purposes of Sections IV through IX of this Order, "Permit" also means any subsequent NPDES permit issued by the State of Wisconsin to Respondent for the Dairy Dreams Facility until such time as this Order is terminated.
21. "Nutrient management plan" and "NMP" means the Facility's WDNR approved nutrient management plan as required by the Permit and Wisconsin Administrative Code Chapter NR 243.14 ("NR 243"), including annual updates submitted under the Permit.
22. "Order on Consent" and "Order" means this document, all attachments hereto, and all subsequent modifications thereto, including incorporated submissions from Respondent, as described in paragraph 59.
23. "Paragraph" means a portion of this Order identified by an Arabic numeral.
24. "Parties" means the EPA and Respondent.
25. "Person," as defined in Section 502(5) of the CWA, means an "individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body." 33 U.S.C. § 1362(5).
26. "Respondent" means Dairy Dreams LLC.
27. "State" means the State of Wisconsin.

28. "WDNR" means the Wisconsin Department of Natural Resources and any successor departments, agencies, or instrumentalities of the State.
29. "Work" means any and all activities Respondent is required to undertake and accomplish under this Order.

IV. FINDINGS OF FACT AND LAW

30. Respondent is a corporation, so it is a "person," as defined in Section 502(5) of the CWA, 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2.
31. At all times relevant to this Order, Respondent owned and operated the Dairy Dreams Facility, a dairy farm, located in Casco, Wisconsin.
32. The Facility is an Animal Feeding Operation because:
- a. The Facility includes lots or facilities where mature dairy (milking and/or dry) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12 month period, within the meaning of 40 C.F.R. § 122.23(b)(1)(i); and
 - b. crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of those lots or facilities, within the meaning of 40 C.F.R. § 122.23(b)(1)(ii).
33. The Facility is a "Large CAFO" because it is an Animal Feeding Operation that stables or confines more than 700 mature dairy cows.
34. Respondent applied for and was issued an NPDES Permit No. WI-0062057-03-0 ("Permit") by WDNR under Section 402 of the CWA, 33 U.S.C. § 1342, which became effective on May 1, 2012. At all times relevant to this Order, Respondent was authorized to discharge pollutants from the Facility to waters of the United States only in compliance with the specific terms and conditions of the Permit.
35. EPA completed a review of the Respondent's compliance with the requirements found in its Permit and federal regulations including 40 C.F.R. §§ 122.23, 122.42(e), and 412. This review included, but was not limited to, an evaluation of the Respondent's compliance with the Permit's monitoring and sampling, recordkeeping, and reporting requirements for 2012-2016, and with Permit requirements regarding land application of manure and process wastewater for crop years 2015-2016. The information and documents reviewed include the Site's NMP Annual Updates for crop years 2012-2016, Annual Reports for crop years 2012-2016, Respondent's 2017 Permit renewal application, and other records provided by Respondent's NMP writer.

Nutrient Management Violations

36. According to the conditions contained in the Permit under Section 1.5, Nutrient Management:

The permittee shall land apply manure and process wastewater in compliance with the Department approved nutrient management plan, s. NR 243.14 and the terms and conditions of this permit. Land application practices shall not exceed crop nutrient budgets determined in accordance with NRCS Standard 590, this permit and s. NR 243.14 and shall be based on manure and process wastewater analyses, soil tests, as well as other nutrient sources applied to a field.

37. In order to determine crop nutrient budgets, NRCS Standard 590 requires the development of annual field-specific nutrient application plans which account for the source, rate, timing, form, and method of application for all major nutrients consistent with NRCS 590 and soil fertility recommendations found in University of Wisconsin-Extension (UWEX) Publication A2809 unless a particular crop is not listed in that publication or nutrient application decisions are based on plant tissue analysis.
NRCS 590 § V.A.1.a.

38. In crop years 2015 and 2016, Respondent violated Section 1.5 of the Permit by land applying nutrients in excess of the rates identified in Respondent's nutrient management plan and annual updates, as well as in excess of the rates recommended by UWEX Publication A2809. The exceedances are identified in Table 1, below.

Table 1. Applications of Nitrogen in Excess of NMP Application Rate and Crop Nutrient Budgets Established in NRCS 590 / UWEX Publication A2809						
2016						
FOIA Ex. 6 (Personal Privacy)	Crop	A2809 lb./acre Nitrogen recommendation + 20% allowance for organic nitrogen source	Planned Nitrogen applications and credits from NMP (lb./ac)	Actual Nitrogen applications and credits from Annual Spreading report (lb./ac)	Nitrogen application and credits in excess of NMP (lb./ac)	Nitrogen application and credits in excess of A2809 nutrient budget (lb./ac)
FOIA Ex. 6 (Personal Privacy) DL-2	Snap Beans early plant, 30 inch row	48	36	102	66	54
FOIA Ex. 6 (Personal Privacy) 6	Snap Beans early plant, 30 inch row	48	31	122	91	74

Table 1 Continued.

Field ID	Crop	A2809 lb./acre Nitrogen recommendation + 20% allowance for organic nitrogen source	Planned Nitrogen applications and credits from NMP (lb./ac)	Actual Nitrogen applications and credits from Annual Spreading report (lb./ac)	Nitrogen application and credits in excess of NMP (lb./ac)	Nitrogen application and credits in excess of A2809 nutrient budget (lb./ac)
M-4A	Alfalfa (1st cut) to Corn silage (Alfalfa Planned)	174	71	244	173	70
DW-5	Corn silage	228	206	318	112	90
2015						
FOIA Ex. 6 (Personal Privacy) FOIA MB-2	Winter wheat (grain+straw)	75	115	135	20	60

* This table is based on information found in in the 2016 Annual Report, 2016 NMP Update, 2015 NMP update, and application information provided by NMP writer.

39. In crop years 2015 and 2016, Respondent violated Section 1.5 of the Permit by land applying nutrients in excess of crop nutrient budgets established in NRCS 590 / UWEX Publication A2809 without sufficient justification for having adopted an alternative crop nutrient budget. Table 2 identifies the instances when Respondent applied nutrients in excess of crop budgets in violation of Section 1.5 of the Permit.

Table 2. Applications of Nitrogen in Excess of A2809 Recommendation*				
2016				
Field ID	Crop	A2809 lb./acre Nitrogen recommendation + 20% allowance for organic nitrogen source	Actual nitrogen applications and credits from Annual Spreading report (lb./ac)	Nitrogen application and credits in excess of nutrient budget (lb./ac)
FOIA Ex. 6 (Personal Privacy) NE	Snap Beans early plant, 30 inch row	48	78	30
FOIA Ex. 6 (Personal Privacy) NW	Snap Beans early plant, 30 inch row	48	78	30
FOIA Ex. 6 (Personal Privacy) South	Snap Beans early plant, 30 inch row	48	78	30
FOIA Ex. 6 (Personal Privacy) Mae-1	Snap Beans early plant, 30 inch row	48	88	40
FOIA Ex. 6 (Personal Privacy) Mae-2	Snap Beans early plant, 30 inch row	48	75	27
FOIA Ex. 6 (Personal Privacy) Mae-3	Snap Beans early plant, 30 inch row	48	80	32
* FOIA Ex. 6 (Personal Privacy) 7A	Snap Beans early plant, 30 inch row	48	53	5
FOIA Ex. 6 (Personal Privacy) 10	Snap Beans late plant, 30 inch row	48	53	5
M-4A	Alfalfa (1st cut) to Corn silage (Alfalfa Planned)	174	244	70
DW-5	Corn silage	228	318	90
2015				
FOIA Ex. 6 (Personal Privacy) 3A	Oats grain + straw	48	170	122
FOIA Ex. 6 (Personal Privacy) MB-1	Winter wheat (grain+straw)	75	135	60

* This table is based on information found in the 2016 Annual Report, 2016 NMP Update, 2015 NMP update, and application information provided by NMP writer.

40. In crop year 2016, for manure applied concurrently from the same manure source, Respondent reported conflicting manure nutrient values depending on whether the manure was applied to the Facility's fields or cooperating farms' fields. Table 3, below, summarizes the conflicting reported manure nutrient values. Because the manure sources are the same,

there should not be any discrepancy between the manure nutrient values reported for the Facility's fields and the values reported for the cooperating farms' fields. As such, Respondent failed to comply with its obligation under Section 3.1.16 of the Permit to submit true, complete, and accurate information required by the Permit.

Table 3. Conflicting Reported Manure Nutrient Values 2016 *							
Dairy Dreams Cooperating Farms Reported Manure Nutrient Values							
Source Name	N	N Incorporated	N Injected	P	K	S	DM
Bed Pack	2.3	2.7	3.1	6.5	11.2	1.2	34
Bio Solids	2.8	3.4	4	4.2	6.9	1.4	33
Pit 1 Average	8	10.8	13.5	7.9	18.3	1.2	5
Pit 2 Average	4.4	5.8	7.2	4.9	14	0.8	3
Pit 3 Ave	4	5.3	6.6	5.9	14.3	0.9	4
Dairy Dreams Fields Reported Manure Nutrient Values							
Source Name	N	N Incorporated	N Injected	P	K	S	DM
Bed Pack	2.2	2.7	3.1	6.5	11.2	1.2	34
Bio Solids	2.4	2.8	3.2	3	6	0.8	24
Pit 1 Average	8	10.8	13.5	7.8	18.3	1.2	5
Pit 2 Average	7.1	9.4	11.8	7.4	16.8	1.2	5
Pit 3 Ave	4.7	6.3	7.9	3	14.6	0.6	2

*This table is based on information collected from the 2016 Annual Report.

Sampling and Record Keeping Violations

41. Section 1.6.2 of the Permit requires Respondent to collect and analyze representative samples of land applied manure and process wastewater for the parameters outlined in the monitoring requirements for each sample point. The requirements are listed in Sections 1.7.3 and 1.7.4 of the Permit. Section 1.7.3 requires that Respondent take samples of liquid manure from the Facility's various liquid manure storage cells twice per month during any month when land application has occurred. Section 1.7.4 requires that Respondent take samples of solid manure quarterly in any quarter when land application has occurred.
42. A review of the Annual Spreading reports and Manure Nutrient Analysis Reports indicates multiple instances during crop years 2012-2016 when Respondent did not sample two times per month as required by Section 1.7.3 of the Permit when land application of manure or process waste occurred. Respondent did not sample at the required frequency in 56 instances from 2012-2016, in violation of Section 1.7.3 of the Permit. Respondent sampled once or not at all in these instances. Table 4, below, identifies, for each liquid manure source, the months during which manure was applied and the frequency of sampling which occurred during those months.

Table 4. Liquid Manure Applications and Sampling Events by Month*							
Month-Year	Pit 1 Manure Storage – Cell 1	Pit 2 Manure Storage – Cell 2	Pit 3 Manure Storage – Cell 3	Month-Year	Pit 1 Manure Storage – Cell 1	Pit 2 Manure Storage – Cell 2	Pit 3 Manure Storage – Cell 3
Oct-12	x	x	x	Sep-14	No app.	x	No app.
Nov-12	x	x	x	Oct-14	No app.	x	x
Dec-12	x	No app.	No app.	Nov-14	No app.	x	x
Apr-13	x	No app.	No app.	Dec-14	No app.	x	x
May-13	x	x	No app.	Apr-15	No app.	x	x
Jun-13	No app.	No app.	x	May-15	x	x	x
Jul-13	No app.	No app.	No app.	Jun-15	No app.	No app.	x
Aug-13	No app.	No app.	x	Jul-15	No app.	x	x
Sep-13	No app.	x	x	Aug-15	x	x	x
Oct-13	x	x	x	Sep-15	No app.	x	No app.
Nov-13	No app.	x	x	Oct-15	No app.	x	x
Dec-13	No app.	x	No app.	Nov-15	x	x	x
May-14	No app.	x	x	May-16	No app.	x	No app.
Jun-14	x	x	x	Jun-16	No app.	x	x
Jul-14	x	No app.	x	Jul-16	No app.	No app.	x
Aug-14	No app.	No app.	x	Aug-16	No app.	x	x

Application with
no manure
samples
reported

Application with
1 manure sample
reported

Application with
multiple
manure
samples
reported

*This table is based on
information found in
the 2013-2016 NMP
updates, Annual
Reports, and 2017
Permit Renewal

43. A review of the Annual Spreading reports and Manure Nutrient Analysis Reports indicates multiple instances during crop years 2012-2016 when Respondent did not sample quarterly as required by the Permit when land application of solid manure occurred. Respondent did not sample at the required frequency in 12 instances from 2012-2016, in violation of Section 1.7.4 of the Permit. Table 5, below, identifies, for each solid manure source, the quarters during which Respondent applied manure without sampling.

Table 5. Solid Manure Applications and Sampling Events by Quarter*		
	Bed Pack	Biosolids
4th Quarter 2012	X	No app.
2nd Quarter 2013	X	No app.
4th Quarter 2013	X	No app.
2nd Quarter 2014	X	No app.
4th Quarter 2014	X	X
2nd Quarter 2015	X	X
3rd Quarter 2015	X	X
4th Quarter 2015	X	X
	Quarters with application but no sampling	

*This table is based on information found in the 2013-2016 NMP updates, Annual Reports, and 2017 Permit Renewal

44. According to the conditions contained in the Permit under section 3.1.9, Recording of Results-Sampling:

For each manure, process wastewater or soil sample taken by the permittee, the permittee shall record the following information:

- The date, exact place, method and time of sampling or measurements,
- The individual or lab that performed the sampling or measurements,
- The date of the analysis was performed,
- The individual who performed the analysis,
- The analytical techniques or methods

45. For crop years 2013-2015, Respondent failed to provide the sampling date for 11 samples as summarized in Table 6, below. By these failures, Respondent violated Section 3.1.9 of the Permit.

Table 6. Manure Samples with Missing Information*		
Sample Name	Date Analyzed	Date Sampled
Pit 2 Liquid	9/20/2013	no sample date
Pit 2 Slurry	10/10/2013	no sample date
Pit 3 Liquid	9/20/2013	no sample date

Table 6 Continued.		
Sample Name	Date Analyzed	Date Sampled
Pit 2	6/20/2014	No sample date
Badger Store Tank	10/16/2014	No sample date
Sample 2 Bio Solids	3/26/2015	No sample date
Sample 1 Bed Pack	3/26/2015	No sample date
Sample 2 Bio Solids	3/26/2015	No sample date
Sand	3/26/2015	No sample date
Pit 1	3/26/2015	No sample date
Pit 2	3/26/2015	No sample date

*This table is based on information found in the 2014-2016 NMP Updates.

Reporting Requirements Violations

46. According to Section 3.2.12 of the Permit, Respondent must submit annual reports that cover quarterly reports, annual spreading activities, and other information required in NR 243.19(3) for the previous calendar year or cropping year, as specified in the Permit. Sections 1.7.3 (liquid manure) and 1.7.4 of the Permit provide that the annual spreading reports portion of the annual reports must be submitted on Form 3200-123, or a department approved equivalent, and must contain all land spreading activities and must include the information identified by those sections of the Permit.
47. For crop years 2012-2016, Respondent failed to provide, or failed to accurately provide, the following information with its Annual Report as required by Sections 3.2.12, 1.7.3, and 1.7.4 of the Permit:
 1. Acres Applied – During a site visit on April 13, 2017, the Respondent's NMP writer stated that the "Acres Applied" information being reported as total field acreage rather than the actual acreage receiving land applications.
 2. Total number of acres actually used by the permittee for land application of manure and process wastewater in the previous 12 months, as required by NR 243.19(3)(c)(9).
 3. The following terms are each, separately, required to be reported on the Annual Report, as required by Permit Sections 1.7.3 and 1.7.4:
 - a. Legume credit
 - b. Second year manure credit
 - c. Additional Fertilizer: Nitrogen
 - d. Additional Fertilizer: P_2O_5

The Respondent's annual spreading reports provide a column titled "Total Nutrients Applied + Credits From Legumes, Manure Credits, Fertilizer." This column provides the sum of the required terms but fails to report them individually.

48. For crop years 2012-2014, Respondent failed to accurately provide either the "Current Crop" or the "Previous Crop" as required by the Permit in section 1.7.3 and 1.7.4 for a number of fields. Table 7, below, summarizes the conflicting information.

Table 7. Conflicting Crop Information *						
Field ID	2012 crop reported in 2012	2012 crop reported in 2013	2013 crop reported in 2013	2013 crop reported in 2014	2014 crop reported in 2014	2014 crop reported in 2015
DD-23	Alfalfa	Grass Hay	No Conflict	No Conflict	No Conflict	No Conflict
R-7	No Conflict	No Conflict	Corn Silage	Winter wheat grain + straw	No Conflict	No Conflict
RC-1	No Conflict	No Conflict	Alfalfa	Corn Silage	No Conflict	No Conflict
RC-2	No Conflict	No Conflict	Alfalfa	Corn Silage	No Conflict	No Conflict
V-1A	No Conflict	No Conflict	Alfalfa	Corn Silage	No Conflict	No Conflict
3 A Jeff Ueck	No Conflict	No Conflict	Corn grain	Soybeans 7-10 inch row	Corn Silage	Snap Beans early plant, 30 inch row
DD-2	No Conflict	No Conflict	Alfalfa	Grass Hay	No Conflict	No Conflict
DD-3	No Conflict	No Conflict	Corn Silage	Oat-Pea Forage w/ alfalfa seeding spring	No Conflict	No Conflict
DW-1	No Conflict	No Conflict	Alfalfa	Grass hay	No Conflict	No Conflict
DW-5	No Conflict	No Conflict	Alfalfa	Grass hay	No Conflict	No Conflict
DW-6	No Conflict	No Conflict	Winter Bye (forage to Corn silage, 30 inch row	Oat-Pea Forage w/ alfalfa seeding spring	No Conflict	No Conflict
JM-1	No Conflict	No Conflict	Alfalfa	Corn Silage	No Conflict	No Conflict
V-5	No Conflict	No Conflict	Corn Silage	Winter Wheat (grain + straw)	No Conflict	No Conflict
Jeff Uecker 7	No Conflict	No Conflict	No Conflict	No Conflict	Corn Silage	Snap Beans early plant, 30 inch row
SDA Bouche	No Conflict	No Conflict	No Conflict	No Conflict	Alfalfa	Grass hay
Ducat South	No Conflict	No Conflict	No Conflict	No Conflict	Alfalfa	Grass Hay

* This information is found in the 2012-2016 Annual Spreading Reports

49. As enumerated in Paragraphs 36 through 49, Respondent is in violation of its Permit conditions and limitations implementing Section 1311 of the CWA, 33 U.S.C. § 1311, in a permit issued under Section 1342 of the CWA, 33 U.S.C. § 1342, by WDNR. 33 U.S.C. § 1319(a)(3).

V. ORDER ON CONSENT

50. Based on the foregoing findings and the authority vested in the undersigned Director, Water Division, it is hereby ordered and agreed to in accordance with Section 309(a) of the CWA, 33 U.S.C. § 1319(a), that Respondent comply with the following actions:

- a) Within thirty (30) calendar days of the effective date of this Order, Respondent shall develop and submit to EPA for approval a Compliance Plan which describes in detail the actions to be taken by Respondent to permanently remedy all Permit violations identified in paragraphs 36 to 49 of this Order. The Compliance Plan shall require Respondent to notify EPA upon completion of major actions undertaken pursuant to the Compliance Plan. The Compliance Plan shall also include a Compliance Schedule which shall not exceed ninety (90) days from the effective date of this Order.
- b) The Compliance Plan and Compliance Schedule shall include provisions to ensure compliance with all Permit terms and include the following:
 - a. Nutrient application rates that are consistent with the requirements of the Permit.
 - b. Crop nutrient budgets are calculated in accordance with the Permit requirements and using actual documented crop yields where necessary (e.g. alfalfa nitrogen applications).
 - c. Manure and process wastewater sampling and analysis are conducted according to the schedule specified in the Permit.
 - d. All information required by the Permit to be recorded with sampling results is recorded.
 - e. The Annual Report required by the Permit contains all information required by the Permit and NR 243.19.
 - f. The Annual Report includes Form 3200-123 or a WDNR approved equivalent including documentation of WDNR approval if an equivalent form is used.
 - g. Accurate reporting of crop information and an explanation of inconsistencies in reported crop information if necessary.
- c) Upon the effective date of the Order for a period of not less than two years and continuing until the Order is closed, the Respondent shall include EPA on all submittals, reports, and correspondence required by the Permit.

VI. DOCUMENTATION AND SUBMISSIONS

51. Respondent must submit a status report to EPA within 30 days of the end of each calendar-year quarter (i.e., by January 31, April 30, July 31, and October 31), until this Order is terminated. The first status report will be due within 30 days of completion of the first full quarter after the effective date of this Order. Each status report shall include: (a) a description of the actions that have been taken toward achieving compliance with this Order during the previous quarter; (b) an assessment of the effectiveness of such actions in preventing Permit

violations; (c) the quarterly written report required by permit section 3.2.12; (d) a summary of all Permit violations that occurred during the previous quarter; and (e) an analysis of the cause of each such Permit violation.

52. All reports, notifications, documentation, submissions, and other correspondence required to be submitted by this Order shall be submitted to the following people and, to the extent possible, by electronic mail in final and searchable format (e.g. pdf OCR-readable), unless otherwise specified herein, or, if not possible, by certified mail (return receipt requested). All electronic submittals must include the certification statement in paragraph 54. The subject of the electronic mail correspondence must include the facility name, NPDES ID, and the name of the deliverable.

Ben Atkinson, Enforcement Officer
Water Enforcement Compliance Assurance Branch (WC-15J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590
Tel. (312) 353-8243
atkinson.ben@epa.gov
And
R5wecca@epa.gov

Christopher Grubb, Associate Regional Counsel
Office of Regional Counsel (C-14J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590
Tel. (312) 886-7187
Grubb.Christopher@epa.gov

53. EPA may require additional status reports, or fewer status reports, for the purpose of documenting the progress of the Work performed pursuant to this Order or compliance with the Permit requirements. Should EPA require additional status reports, EPA will provide Respondent with at least 15 days from the date of EPA's request to submit the reports.
54. All reports, notifications, documentation, and submissions required by this Order shall be signed by a duly authorized representative of Respondent as specified by 40 C.F.R. § 122.22(b) and (d) and shall include the following statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system,

or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

55. Respondent may not withhold information based on a claim that it is confidential. However, pursuant to 40 C.F.R. Part 2, Subpart B, Respondent may assert a claim of business confidentiality regarding any portion of the information submitted in response to this Order. The manner of asserting such claims is specified in 40 C.F.R. § 2.203(b). Certain information related to effluent data (as defined in 40 C.F.R. § 2.302(a)(2)) and NPDES permit applications may not be entitled to confidential treatment. 40 C.F.R. § 122.7. Information subject to a business confidentiality claim is available to the public only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2, Subpart B. If Respondent does not assert a claim of business confidentiality when it submits the information, EPA may make the information available to the public without further notice. 40 C.F.R. § 2.203(c).
56. If Respondent finds at any time after submitting information that any portion of that information is false or incorrect, the signatory must notify EPA immediately. Knowingly submitting false information to EPA in response to this Order may subject Respondent to criminal prosecution under Section 309(c) of the CWA, 33 U.S.C. § 1319(c), as well as 18 U.S.C. § 1001 and 1341.
57. Submissions required by this Order shall be deemed submitted on the date they are sent electronically or on the date postmarked if sent by U.S. mail.
58. Upon EPA approval, submissions by Respondent are incorporated and enforceable as part of this Order. In case of inconsistency between any submission by Respondent and this document and its subsequent modifications, this document and its subsequent modifications shall control.
59. EPA may use any information submitted in response to this Order in support of an administrative, civil, or criminal action against Respondent.
60. The information required to be submitted pursuant to this Order is not subject to the approval requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. § 3501 *et seq.*

VII. GENERAL PROVISIONS

61. Respondent has had the opportunity to confer with and submit information to EPA concerning the validity and provisions of this Order.
62. The terms of this Order are binding on Respondent and its assignees and successors. Respondent must give notice of this Order to any successors in interest prior to transferring

ownership, and must simultaneously verify to EPA, at the address specified in paragraph 52, that Respondent has given the notice.

63. The undersigned signatory for each party has the authority to bind each respective party to the terms and conditions of this Order.
64. Failure to comply with this Order may subject Respondent to penalties up to \$52,414 per day for each violation pursuant to Section 309(d) of the CWA, 33 U.S.C. § 1319(d), and 40 C.F.R. Part 19.
65. This Order does not affect Respondent's responsibility to comply with the CWA, its Permit, and any other local, state, and federal laws and regulations.
66. This Order does not restrict EPA's authority to enforce the Permit or any section of the CWA or its implementing regulations.
67. EPA reserves all rights and remedies, legal and equitable, available to address any violation cited in this Order and any other violation of the CWA, and to enforce this Order. Neither issuance of this Order by EPA nor compliance with its terms precludes further enforcement action pursuant to Section 309 of the CWA, 33 U.S.C. § 1319, for the violations cited in this Order, for any other violations of the CWA committed by Respondent, or to enforce this Order.
68. The CWA includes provisions for administrative penalties, for civil injunctive relief and penalties, and for criminal sanctions for violations of the CWA. Specifically, EPA may:
 - a) assess civil administrative penalties under 33 U.S.C. § 1319(g) and 40 C.F.R. Part 19 of up to \$16,000 per day of violation up to a total of \$177,500 for violations that occurred after January 12, 2009 through December 6, 2013; up to \$16,000 per day for each violation up to a total of \$187,500 that occurred after December 6, 2013 through November 2, 2015, or are assessed before August 1, 2016; or up to \$21,393 per day of violation up to \$267,415 for violations that occurred after November 2, 2015 and assessed on or after January 15, 2018.
 - b) seek civil injunctive relief and penalties for violations of the CWA under 33 U.S.C. § 1319(b) and 40 C.F.R. Part 19. EPA may seek civil judicial penalties of up to \$37,500 per day for violations that occurred after January 12, 2009 through December 6, 2013; \$37,500 per day for violations that occurred after December 6, 2013 through November 2, 2015, or that are assessed before August 1, 2016; up to \$53,484 per day for violations that occurred after November 2, 2015 and assessed on or after January 15, 2018; and,
 - c) seek criminal sanctions, including fines and imprisonment, for negligent or knowing violations of the CWA under 33 U.S.C. § 1319(c).

VIII. EFFECTIVE DATE

69. This Order shall become effective upon signature by EPA below and will remain in effect until Respondent has demonstrated compliance and EPA has notified Respondent pursuant to paragraph 71 or 72.

IX. FINAL REPORT AND TERMINATION OF THIS ORDER

70. Within 30 days after Respondent concludes that it has complied with all requirements of this Order, Respondent must submit to the EPA Case Manager a written final report and certification of completion describing all actions taken to comply with all requirements of this Order.
71. After receipt and review of Respondent's final report and certification of completion submitted pursuant to paragraph 71, EPA will notify Respondent whether it has satisfied all requirements of this Order. If EPA concludes that Respondent has failed to satisfy the requirements of this Order, EPA may require further actions as set forth under this Order or it may pursue administrative or civil judicial actions. This Order shall remain in effect until EPA notifies Respondent that Respondent has complied with all requirements of this Order.
72. EPA reserves the right to terminate this Order based on a determination that the terms of the Order have been satisfied.

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IT IS SO AGREED AND ORDERED:

FOR RESPONDENT, Dairy Dreams LLC:

Ex. 6 (Personal Privacy)

Signature

Ex. 6 (Personal Privacy)

Name

Title

Date

6/12/18

FOR THE COMPLAINANT, U.S. ENVIRONMENTAL PROTECTION AGENCY:

for Thomas Poy

Linda Holst
Acting Division Director
Water Division

Date

6/29/2018